

CITY COMMISSION MINUTES

June 16, 2009

7:00 p.m.

The regular meeting of the Junction City City Commission was held on Tuesday, June 16, 2009 with Mayor Terry Heldstab presiding.

The following members of the Commission were present: Terry Heldstab, Scott Johnson Mike Rhodes, and Ken Talley. Staff present was: City Manager Rod Barnes, Assistant City Manager Mike Guinn, City Engineer Christina Cook, City Attorney Catherine Logan, and City Clerk Tricia Gowen.

PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION

Commissioner Rhodes moved, seconded by Commissioner Talley to adjourn into executive session at 7:01 p.m. to reconvene at 7:16 p.m. to discuss attorney-client privileges. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion carried. Included in the Executive Session were the Commission, the City Manager, the Assistant City Manager, and the City Attorney.

Commissioner Rhodes moved, seconded by Commissioner Talley to reconvene into regular session at 7:16 p.m. having made no decisions nor taken any action while in executive session. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion carried.

Commissioner Rhodes moved, seconded by Commissioner Talley to authorize the City Attorney to research the options for an independent investigation into the City's dealings with Big D Development. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion carried.

GENERAL DISCUSSION

(The Commission requests that comments be limited to a maximum of five minutes for each person.)

Scott Johnson, 602 Stoneridge Drive, Junction City, Kansas stated that last week, he was contacted and asked for his reaction about the charges against David Freeman of Big D Development and the alleged \$19,000 payoff to a Junction City Commissioner. My response was that Commissioners Mike Rhodes, Ken Talley and Terry Heldstab should resign. I later called for the resignation of City Manager Rod Barnes. My response was not premature or reckless. I see a government from Washington to Main Street that has wasted a lot of taxpayer money and some of our Commissioners are no exception. I am surprised a lot more politicians are not asked to resign. Myself, and others have warned these Commissioners and our City Manager for years about their premature and reckless rush into a housing boom without proper planning, expertise or support to oversee such an uncertain expansion. I warned them about Dave Freeman in particular, and asked that he come before the Commission and explain his excessive development costs which led to very high special taxes on lots that were clearly not needed. These Commissioner violated their own policy of using a 90/10 cost structure for development, they let Big D proceed with his development without competitive bids, and as result the very high special taxes in the Big D Developments made the lost very hard to sell. These Commissioners response was to push for a RHID designed to bail out Big D, and pass the excessive special taxes onto the

taxpayers of Junction City. The mishandling of the housing expansion is just one of many very expensive mistakes these Commissioners have made with our money. Our City debt has gone from \$15,000,000 to over \$200,000,000 and our per capita debt is over \$10,000 each. I am glad to see that our City Manager Rod Barnes is taking our advice and agreeing we need an investigation and complete accounting of where our money went and how it was spent. We will be working on the City budget and this investigation needs to be funded. I have always said that Junction City is a great place to live, work and raise a family. We have a good location on I-70, beautiful Milford Lake only a few miles from town, a top school system and Fort Riley. We have a lot of potential, but we will not realize it if we do not recognize our problems and meet them head-on. We need a City Manager and Commission that understands business and how to follow a budget and above all looks out for the taxpayers of Junction City and not special out-of-town interest. As always, contact me anytime with your ideas and concerns.

Chris Jasinski, 7218 Rockwood Drive, Milford, KS stated that it is prudent to have an independent audit of all City financials for the past five years.

Bruce Jasinski, 7218 Rockwood Drive, Milford, KS stated inquired about the Finance Manager position and when it will be advertised. City Manager, Rod Barnes, stated that the position is now being advertised. Mr. Jasinski recommended that the City have a forensic accounting firm conduct the audit instead of a regular accounting firm.

David Alexander, 2520 K-Hwy 18, Junction City, KS stated that he supports Commissioners Johnson and Taylor in their request for an independent investigation. Mr. Alexander stated that the investigation should be conducted by a firm from outside the state. He stated that the Bluffs is going under just like Capgemini and Empire Today. Commissioners Talley, Rhodes and Heldstab were at the helm when these projects were approved and whether they knew or not, they should have known. This isn't a good enough excuse. They relied too much on information provided to them by the City Manager and the developers. Too many promises were made. Not being aware is not good enough. Mr. Alexander stated that the document he provided to the Commission is just one of many examples of mismanagement. The document was a copy of a check written by the City Manager in the amount of \$63,598.98 to American Dream Development. When Mr. Alexander inquired as to the reason for the check, he was told that the City did not have documentation for the check. He has pages and pages of such examples. We need an audit immediately. Commissioner Johnson stated that the document shows three checks and that two of them were voided and he wanted to know what that was about. Mr. Alexander stated that he was told there was some confusion as to who owned the property. He was told it was for moving dirt; however, they have not been able to determine this explanation and that it may have been for some other purpose. This check was tied into another check for \$87,000 to the same development. Mr. Alexander stated that in December 2005, the check and other information was brought to the Commission by the City Manager. Commissioner Taylor challenged the \$150,000 expenditure with a motion; however, it died for a lack of a second. Mayor Heldstab stated for clarification, he asked Mr. Alexander was this the dirt that was removed from his property. Mr. Alexander stated that yes, the \$87,000 was one of the dirt deals; however, the other check was not. Mr. Alexander stated that either way, none of it was approved by the Commission before spending the money.

Patty Maycroft, 8396 Old Stage Road, Junction City, KS stated "Ken, Terry and Mike, I just wanted you guys to know that you have my full support. Yes, Mike is my brother and yes, Terry has repaired my refrigerator and I think my washer and, yes, Ken did bury my mother in 1984. With all you have taken on, I, and most others, know you have tried to do what is best for this community. I am so sorry that you have to put up with the endless harassment. I

know of very few people that would be able to put up with all you have had to endure. And I, for one, appreciate you still holding your head up high and attending events in public this past week or so such as the retirement of one of our fine Junction City Police Department officers and the all important America in Bloom celebration to name a few. To bad that Scott and Jack rarely, very rarely, are able to attend events such as these. Perhaps, if they would attend these types of public events, they would realize as those that do, that they really have a very small following. You (Scott) were fooled by that very first town meeting in assuming that everyone there was in support of you. It is just that most are afraid to be torn apart and ridiculed in public by you. And in some instances, especially lately, physically afraid. I am not afraid of you and I am willing to speak out publicly as I hope others will follow. I am very sad for Junction City that this investigation even has to go on. But I will also be very glad for the results to be brought forth. And if any of the allegations are found to be true, then, of course, any involved need to be prosecuted. That will be a very sad day for Junction City. But even at that, I feel what a few certain individuals have done for months and created by this media circus and endless accusations is just as damaging to our community and needs to stop. Let the proper authorities handle it."

Lawrence Ruiz, 1906 McFarland Road, Junction City, KS stated he is the Senior Pastor at Grace United Pentecostal Church and a businessman. He has been in Junction City for 32 years. This Commission has tried to imprison him twice. Four judges have thrown out the City's case. Mr. Ruiz stated that he is speaking the truth and he is not afraid of the Commission. He has a fear of God, not man. What the Commission did was wrong and it is judgment day. Mr. Ruiz stated that what Commissioner Johnson did, he did in fear of God and what he did was right. Mr. Ruiz highly commends Commissioner Johnson. This is God's town; if it wasn't, the 10 Commandment wouldn't be out front of this building. The Commission needs to go by the Commandments. Actions speak louder than words. When he was overseas, the Commission tried to tear down two of his properties. He had more than \$125,000 invested in one of the properties. Because he loves this City, he buried his son here and has been here 32 years, he ran for Commission twice. The Commission tried to destroy him. All he wanted to do was pray for the Commission, encourage them, put a little wisdom and knowledge in the Commission. He stated that he was stand interim and stand behind Commissioner Johnson as a temporary Commissioner if needed. He wants justice to come to light, the truth is coming out and it is judgment day.

Rick Roberts, 506 Hawthorne, Junction City, KS stated that he works at Dick Edwards. Mr. Roberts commended Mayor Heldstab, Commissioner Talley and Commissioner Rhodes. He stated that the three of them have done as good job as anyone could have; they are up against a lot of stuff they didn't know was going on. He stated that Commissioner Johnson is out of line calling for their resignations from the Commission. Until the facts are known, this is hearsay. He supports the Commission; however, he feels Commissioner Johnson is out of line. The independent audit is a good idea. There are a lot of people who want to bring their business to Junction City or expand their current business and the community does not need this situation. Mr. Roberts stated again that he feels Commissioner Johnson is completely out of line in calling for their resignations. Commissioner Johnson stated that he did not call for their resignations based on criminal charges; he called for their resignations based on their decisions that were made in the past several years. Mr. Roberts stated that in 2004 he moved to Junction City from Abilene and now calls Junction City home. He wants to see more support for the Commission; Commissioner Johnson was not on the Commission at that time and does not have all of the information that was provided to them. Mr. Roberts stated that Commissioner Johnson was not the top vote getter in the election and there were a lot of people that did not vote for him including himself. Mr. Roberts stated

that he is in full support of the three Commissioners and feels that Commissioner Johnson was out of line calling for their resignations.

George Marcus, 1538 McFarland Road, Junction City, KS stated that he has spoken to the Commission several times over the last six to eight years. He is not there to criticize them as Commissioners; however, he has the right to conduct critical analysis and give his opinion on how the taxpayers dollars are spent. When taxes are raised, it becomes more and more difficult to conduct his business. He voiced his concern several years ago with incentives given to a developer for the convention center. He stated that he believed at the time that providing an incentive would start a down-hill spiral for other developers who would want incentives for their projects. He has opposed all gifts given to developers and continues to oppose them. He feels the Commission want too far with special assessments even though he has enjoyed the use of the financing mechanisms. Mr. Marcus stated that it is hard to stand critical of the Commission. It doesn't mean that he doesn't like them; he just has a different opinion which is a democracy. Mr. Marcus stated that he does not agree with the call for the three Commissioner's resignations. The debt continues to grow and it becomes more difficult to do business.

Sandra Clark, 216 E. 16th Street, Junction City, KS stated that she has a house through the Self-Help Housing program and she has had problems from day one. She moved into her house at the end of June 2008 and has experienced electrical problems, water pressure issues, a water leak, doorway problems, and concrete issues. She stated that she has brought these issues to the City's attention; however, very little has been done to correct the problems. Ms. Clark stated that City officials came to her house on Friday. Mayor Heldstab verified with the Assistant City Manager that his has occurred. Mr. Guinn stated that he had been at Ms. Clark's house on Friday. City Manager, Rod Barnes, stated that the City knows about Ms. Clark's issues and is looking into them. Mr. Barnes stated that Ms. Clark built her house through the Self-Help Housing program in which the families actually build their homes.

CONSENT AGENDA

Commissioner Rhodes moved, seconded by Commissioner Talley to approve the Consent Agenda. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion carried. The Consent Agenda consisted of the following:

- a. Approval of the **June 2, 2009**, City Commission meeting minutes.
- b. The consideration of **Appropriation Ordinance** dated May 28 to June 10, 2009 in the amount of \$1,429,736.00.
- c. Monthly Reports:
 1. Personnel
 2. Codes
 3. Rolling Meadows
 4. Water Department
 5. EMS
 6. Fire Department
 7. Recreation
- d. The consideration and approval of **Cancellation of June 30, 2009, City Commission Meeting.**

- e. The consideration and approval for **Pay Estimate #10** by Kaw Valley Engineering in the amount of \$12,344.00 for services through May 24, 2009 on the K-18 & Karns Intersection Improvements.

SPECIAL PRESENTATIONS

- a. Presentation of certificate/award to the **June Yard of the Month** winner. Officer Jay Wigton presented the June Yard of the Month to the Wing Family at 539 W. 14th Street. Officer Wigton thanked the sponsors of the Yard of the Month program.
- b. Presentation of an award of appreciation for participation in the **Run for the Wall** from the Run for the Wall Board of Directors. Commissioner Rhodes stated that he has served on the committee for the past two years and the community has received numerous accolades from the Run for the Wall group. Many, many people volunteered their time to provide meals, participate in the ceremony, etc. Commissioner Rhodes stated that the committee is looking forward to hosting the Run for the Wall group again next year.
- c. The Junction City Historic Preservation Board will present a **Kansas Preservation Alliance Award of Excellence for the Opera House**. David Gunderson presented the Kansas Preservation Alliance Award for Excellence to the Mayor for the Opera House.

NEW BUSINESS

- a. The consideration and approval of a **change to existing Junction City Arts Council by-laws** to create a nine-(9)-member non-voting Junction City Arts Council Associate Board to add a stronger voice and stated purpose in the operations and future of the Arts program in Junction City. Commissioner Rhodes moved, seconded by Commissioner Heldstab to approve the change to the existing Junction City Arts Council by-laws to create a nine (9) member non-voting Junction City Arts Council Associate Board. Ayes: Heldstab, Johnson, Rhodes. Nays: Talley. Motion carried three to one.
- b. The consideration and approval to install **(eight) 8 street light poles on the Rucker Road – Whitney to US – 77 project**, with 2 options, wood or metal poles costing the City between \$0.00 to approximately \$15,312.00. City Engineer, Christina Cook, stated that if the Commission decides to move forward with the wood poles, there is no additional cost. If they decide on the metal poles, the cost is \$15,312.00. Ms. Cook stated that she recommends the wood poles. Westar Energy is responsible for changing the poles if they need to be replaced in the future. Commissioner Johnson inquired when the wood poles need to be replaced, can the Commission change to a metal pole. Ms. Cook stated that metal poles can replace the wood poles; however, there would be a cost associated with that change at that time. The Commission chose to use the wood poles. No action was needed since this had been approved at a previous meeting.
- c. The consideration and approval to **increase the contract with Kaw Valley Engineering, Inc. by \$21,866.00** for Construction Management on the McFarland Road to Wildcat Lane project. City Engineer, Christina Cook, informed the Commission that Kaw Valley Engineering, Inc. was approved to provide Construction Management for the McFarland Road to Wildcat Lane project in an amount not to exceed \$90,094.00. The construction management was approved for a duration of 180 days. Due to unforeseeable circumstances (weather, delays from KDOT with the revolving loan funds), the contractor suspended work. This project has extended an additional 115 days more than the original contract. During the suspension of work, Kaw Valley Engineering, Inc. continued to provide construction management services on a part time basis and billed the City only for

the hours worked. Kaw Valley Engineering, Inc. requests an additional \$ 21,866.00 for the construction management services for this project. Commissioner Johnson inquired as to the issue with the revolving loan fund. Ms. Cook stated that there was a delay with KDOT and the coordination of the management of funds. The City has corrected the delay issues with KDOT and with the local and state offices. Commissioner Talley stated that he expected a change order for this. City Manager, Rod Barnes, explained that this is a change order request by Kaw Valley Engineering, Inc. Commissioner Talley stated that the Commission approved the project for a specific amount not to exceed and the Commission should stick with that vote. Brad Goss with Kaw Valley Engineering, Inc. stated that there had been an issue with acquisition of easements which slowed down the project. Mr. Goss stated that if you have extenuating circumstances, wouldn't you make adjustments? Commissioner Rhodes moved, seconded by Commissioner Johnson to approve the increase to the contract with Kaw Valley Engineering, Inc. in the amount of \$21,866.00 for Construction Management on the McFarland Road to Wildcat Lane project. Ayes: Heldstab, Johnson, Rhodes. Nays: Talley. Motion carried three to one.

- d. The discussion of locating **Chamber of Commerce offices in a City building located at 701 N. Jefferson.** Chamber Chairman, Craig Altenhofen, stated that a committee has been formed with representatives from the Chamber, EDC, Military Affairs, and the CVB to discuss the possibility of relocating these entities to one location. The Chamber will recommend to their board that the Chamber relocates to 701 N. Jefferson and share the location with the EDC. This would be a physical move only; there will not be a combining of staff, resources, or budget. The Chamber wants to build on the synergy of the EDC and Chamber and eventually, the relocation will be a cost-saving measure for the Chamber. The Chamber feels the relocation will provide for greater collaboration between the Chamber and the EDC. Mr. Altenhofen stated that he was before the Commission to ask for their direction. If the Commission is positive, he will present the idea to the County Commission. The idea will be presented to the Chamber Board at their meeting next week. Commissioner Talley stated that the EDC Board was asked to consider the idea and they asked for more detailed information from the Chamber. He stated that no commitment had been made at this time. Commissioner Rhodes stated that he thinks it is a good idea; however, he doesn't want to intermingle the two for taxpayer dollars. Mr. Altenhofen stated that the Chamber is member-driven and the EDC is tax-driven and will remain that way. Mayor Heldstab stated the he feels the Chamber should move forward with their plan. Commissioner Johnson stated that he was alright with the plan as well. Mr. Altenhofen stated that the Military Affairs and the CVB made the decision not to relocate.

COMMISSIONER COMMENTS

Commissioner Taylor asked that the following statement be read by the City Clerk in his absence:

"Mayor Heldstab, I am troubled by what I perceive to be the public lack of faith, confidence and trust in our city government in the light of recent allegations of impropriety on the part of a city commissioner, that remains unnamed at this time. These events have cast doubt on all of us in our ability to govern. Our actions are now being questioned all over town, county, and state. To clear the air, I am now in support of an Independent Investigation to be conducted as quickly as possible so that the air may be cleared and that we may get on with the governing of our community. Respectfully, Commissioner Jack Taylor."

Commissioner Johnson stated that there is a big difference of opinions and he thinks he is in the majority. Cheerleading is good for Junction City; however, we must learn from our mistakes and not forget. Past actions will catch up with us. We didn't do any favors for the

military. We can say we did the best we could with the information we had; that's not good enough and it's not an excuse. Commissioner Johnson stated that his office is open to anyone that wants to speak with him. We can't act like problems don't exist.

Commissioner Rhodes stated that he appreciates everyone's input. Commissioner Rhodes stated what a great community and country we live in that we can say the things we do about each other.

Mayor Heldstab stated that he was pleased with the America in Bloom project and that Ed Hooker had put together a book on our community that was incredible. Mayor Heldstab stated that one of the judges wrote a letter to the editor that was very complimentary to our community. Mayor Heldstab stated that it is time to show character, trustworthiness, integrity. He stated that he puts trust in the three Commissioners and Rod Barnes and they are all people he would trust his children with. Mayor Heldstab told Commissioner Johnson that he is very disappointed in how Commissioner Johnson has handled all that has happened this week and the way Commissioner Johnson ran to the media.

STAFF COMMENTS

City Manager, Rod Barnes, stated that all of the volunteers made America in Bloom a success. Sarah Talley chaired the committee and there were many other volunteers that gave countless hours for the project. The community was judged on eight criteria and the final report will be presented in October. The America in Bloom will move into the PRIDE Team. Mr. Barnes thanked everyone who participated in America in Bloom. Mr. Barnes informed the Commission that David Yearout is now on board and his office is located in the basement of the Municipal Building. The Joint City/County meeting is scheduled for June 22nd at 4 p.m. The City is hosting the meeting. Commissioner Talley will provide a presentation at the meeting. Mr. Barnes stated that the Police Department received a technology grant from the Department of Justice in the amount of \$150,000. Mr. Barnes reminded everyone that fireworks are allowed to be shot off in the City. The Sundown Salute runs from July 2nd to July 5th.

Police Chief, Bob Story, informed the Commission that the streets around Heritage Park will be barricaded for Sundown Salute beginning June 29th. The 100 and 200 blocks of West 7th Street will be open during Sundown Salute. The 200 block of West 7th Street will be closed during the parade to accommodate buses that will transport soldiers from Fort Riley to Junction City for the 4th of July parade.

EXECUTIVE SESSION

Commissioner Rhodes moved, seconded by Commissioner Johnson to adjourn into executive session at 8:29 p.m. to reconvene at 8:39 p.m. to discuss attorney-client privileges. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion carried. Included in the Executive Session were the Commission, the City Manager, the Assistant City Manager, and the City Attorney. Commissioner Rhodes excused himself from the Executive Session due to a conflict of interest.

Commissioner Talley moved, seconded by Commissioner Rhodes to reconvene into regular session at 8:39 p.m. having made no decisions nor taken any action while in executive session. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion carried.

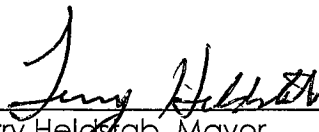
ADJOURNMENT

Commissioner Talley moved, seconded by Commissioner Rhodes to adjourn at 8:40 p.m. Ayes: Heldstab, Johnson, Rhodes, Talley. Nays: None. Motion Carried.

APPROVED AND ACCEPTED THIS 7th DAY OF JULY 2009 AS THE OFFICIAL COPY OF THE JUNCTION CITY CITY COMMISSION MINUTES FOR JUNE 16, 2009.



Tricia Cowen, City Clerk



Terry Heldstab, Mayor